



Costs Decision

Site visit made on 17 December 2024

by **P Storey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 February 2025

Costs application in relation to Appeal Ref: APP/W0734/W/24/3350342 137 Southfield Road, Middlesbrough TS1 3HB

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Middlesbrough Council for a partial award of costs against Mr Imran Khan of Prime Properties MB Ltd.
 - The appeal was against the refusal of planning permission for erection of two storey front bay extension (demolition of existing two storey bay window), second floor extension to rear, garage conversion into habitable room and internal configuration from 7no. bed HMO to 12no. bed HMO.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. To justify an application for costs, the PPG requires clear evidence demonstrating how alleged unreasonable behaviour has resulted in unnecessary expense. This could relate to the entire appeal or only part of the process.
4. The application for a partial award of costs focuses solely on the matters relating to the Council's 4th reason for refusing planning permission, which concerns the effects of the development on the Teesmouth and Cleveland Coast Special Protection Area, a designated European Site.
5. The evidence before me indicates that the main parties agreed the proposal would have a likely significant effect on the integrity of the European Site. To mitigate this, I am provided with evidence that the appellant attempted, but ultimately failed, to purchase credits through Natural England's Nutrient Mitigation Scheme (NMS) for the River Tees Catchment Area.
6. The Council argues that the grounds for appeal on this issue lacked planning merit, as the appellant had been clearly informed that planning permission could not be granted without appropriate mitigation being secured, as confirmed by Natural England. It is stated that the onus is on the appellant to secure mitigation in respect of this issue, and pursuing the appeal without mitigation was deemed unreasonable behaviour.
7. Emails presented in the evidence show that the appellant had been warned that, without mitigation secured through NMS credits or alternative measures, the

application would be refused. Similar advice from Natural England was also communicated prior to the application being determined.

8. Although the appellant's attempts to secure mitigation through the NMS are acknowledged, the efforts were ultimately unsuccessful and insufficient to convince the Council or Natural England to withdraw their objection. However, while the Council emphasised that planning permission would not be granted until mitigation was secured, it did not clearly specify what steps the appellant needed to take: for instance, obtaining an NMS certificate or pursuing alternative mitigation secured through a planning obligation.
9. As set out in my accompanying appeal decision, it was not necessary for me to undertake an appropriate assessment (AA) to determine the effects of the development on the European Site, as the appeal was dismissed for other reasons. However, even if I had reached a definitive conclusion that the effects on European Sites would be sufficient to refuse the development, I am not convinced that the appellant was sufficiently informed that the issue was insurmountable at the appeal stage.
10. For these reasons, I do not find that the details set out in the costs application amount to unreasonable behaviour, as set out in the PPG.

Conclusion

11. Based on the details before me, I find no evidence to demonstrate unreasonable behaviour by the appellant that has resulted in unnecessary or wasted expense for the Council during the appeal process. The application for an award of costs is therefore refused.

P Storey

INSPECTOR